
2003 Wis Eth Bd 12
POST EMPLOYMENT

The Ethics Board advises that §19.45 (8), *Wisconsin Statutes*, prohibits a former state public official appearing as a paid representative of a private entity before the agency to which the responsibilities of the official's former agency were transferred (1) until twelve months after the official has left office on matters that involve applications, contracts, claims, or other quasi-judicial matters or proceedings under the official's responsibility while the official was with the official's former agency or (2) ever on applications, contracts, claims, or other quasi-judicial matters or proceedings in which the official participated personally and substantially as a public official. Apart from these restrictions, §19.45 (8) (a), *Wisconsin Statutes*, does not limit a former official's appearing as a paid representative of a private entity before the agency to which the responsibilities of the official's former agency were transferred.

Facts

- ¶1 This opinion is based upon these understandings:
- a. You were a state public official in a state agency.
 - b. Your last working day was in 2002.
 - c. The state has eliminated the agency and transferred its responsibilities, functions, positions, and assets to another agency.

Questions

- ¶2 The Ethics Board understands your question to be:

Does §19.45 (8), *Wisconsin Statutes*, prohibit your appearing as a paid representative before the agency to which your former agency's functions have been transferred for twelve months following your departure from the former agency?

Discussion

¶3 Section 19.45 (8), *Wisconsin Statutes*, the so-called “revolving door” provision of the Ethics Code, reduced to its elements, provides:

¶4 Section 19.45 (8) (a), *Wisconsin Statutes*, reduced to its elements, provides:

No former state public official
For 12 months following the date on which he or she ceases to be a
state public official
May, for compensation, appear before or negotiate with
Any officer or employee of the department with which he or she was
associated as a state public official¹

¶5 We have consistently given this restriction the common-sense interpretation that it applies to the official’s former *agency*, whether the officers or employees are the same or different than those working during the former official’s tenure.² It does not apply to the *individuals* who worked in that agency coincident with the former official’s tenure wherever they might now be in state government.

¶6 Pursuant to the Legislature’s action, the duties, responsibilities, and employees of your former agency were transferred to a different agency and your former agency will no longer exist. The transfer is more than a mere change of name. The agency to which the responsibilities of your former agency were transferred is a large, established unit of Wisconsin’s government with a wide range of responsibilities, a large number of employees, and an administration and culture distinct from your former agency. Thus §19.45 (8) (a), *Wisconsin Statutes*, will not prohibit your

¹ Section 19.45 (8), *Wisconsin Statutes*, provides:

19.45 (8) (a) Except in the case where the state public office formerly held was that of a legislator, legislative employee under s. 20.923(6)(bp), (f), (g) or (h), chief clerk of a house of the legislature, sergeant at arms of a house of the legislature or a permanent employee occupying the position of auditor for the legislative audit bureau:

(a) No former state public official, for 12 months following the date on which he or she ceases to be a state public official, may, for compensation, on behalf of any person other than a governmental entity, make any formal or informal appearance before, or negotiate with, any officer or employee of the department with which he or she was associated as a state public official within 12 months prior to the date on which he or she ceased to be a state public official.

² 1998 Wis Eth Bd 13 ¶4; 1997 Wis Eth Bd 17 ¶4.

representation of clients before the agency to which the responsibilities of your former agency were transferred.

¶7 From a public policy standpoint, there may be good reasons to prohibit such representation, but the statute is not written in terms that would apply in the rather unique situation about which you ask.³

¶8 We note that, even though the general prohibition of §19.45 (8) (a) does not apply, the restrictions contained in §19.45 (8) (b) and (c), *Wisconsin Statutes*, do. Section 19.45 (8) (b), *Wisconsin Statutes*, restricts you, for 12 months, from appearing before, or negotiating with, an officer or employee of *any* state agency in connection with applications, contracts, claims, and other quasi-judicial matters and proceedings, which were under your responsibility when you were a state public official.⁴ And §19.45 (8) (c) restricts you from ever acting on behalf of any person on quasi-judicial matters in which you participated personally and substantially as a public official.⁵

Advice

¶9 The Ethics Board advises that §19.45 (8), *Wisconsin Statutes*, prohibits your appearing as a paid representative of a private entity before the agency to which the responsibilities of your former agency were transferred (1) until twelve months after you have left office on matters that involve applications, contracts, claims, or other quasi-judicial matters or proceedings under your

³ The statute is written to apply in the usual case and does not take account of every possible circumstance. For example, the statutory restrictions still apply even after a change of administration and turnover in the leadership of an agency.

⁴ Section 19.45 (8) (b), *Wisconsin Statutes*, provides:

19.45 (8) (b) No former state public official, for 12 months following the date on which he or she ceases to be a state public official, may, for compensation, on behalf of any person other than a governmental entity, make any formal or informal appearance before, or negotiate with, any officer or employee of a department in connection with any judicial or quasi-judicial proceeding, application, contract, claim, or charge which might give rise to a judicial or quasi-judicial proceeding which was under the former official's responsibility as a state public official within 12 months prior to the date on which he or she ceased to be a state public official.

⁵ Section 19.45 (8) (c), *Wisconsin Statutes*, provides:

19.45 (8) (c) No former state public official may, for compensation, act on behalf of any party other than the state in connection with any judicial or quasi-judicial proceeding, application, contract, claim, or charge which might give rise to a judicial or quasi-judicial proceeding in which the former official participated personally and substantially as a state public official.

responsibility while you were with your former agency or (2) ever on applications, contracts, claims, or other quasi-judicial matters or proceedings in which you participated personally and substantially as a public official. Apart from these restrictions, §19.45 (8) (a), *Wisconsin Statutes*, does not limit your appearing as a paid representative of a private entity before the agency to which the responsibilities of your former agency were transferred.

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